IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.76 OF 2002

Dada Sundar Pawar .. Petitioner

Versus

Smt.Ratna @ Shobha Dada Pawar .. Respondent

Mr.A.S.Khandeparkar with Mr.D.H.Pawar i/b.
M/s.Khandeparkar & Associates for petitioner
Mrs.S.D.Shinde, A.P.P. for State.

CORAM : S.C.DHARMADHIKARI, J.
DATE : 22nd June 2007.

P.C.

. Petitioner husband has challenged the order passed by the Revisional Court refusing to

stay an order passed by the Judicial Magistrate, F.C. Satara dated 24th August 2001. The request of petitioner before the Additional Sessions Judge was that the order of the J.M.F.C. be stayed till the hearing and final disposal of his criminal application. That request being denied by the impugned order, a copy of which is at Annexure G, the present petition, has been filed.

2. Petitioner moved this Court on 24th January 2002 and after directing notice to respondent No.1 this Court granted interim reliefs in terms of prayer clause (b) of the present petition, which reads thus:-

> "(b) Pending the hearing and final disposal of this writ petition stay to the recovery proceeding in the Criminal Miscellaneous Application No.249 of 1995 pending in the Court of His Honour Shri D.K.Raje-Pandhare, the Judicial

Magistrate, First Class, Satara may be granted."

3. After notice was issued to respondent No.1 she has engaged an Advocate who has filed his appearance.

4. The matter was repeatedly adjourned but none has appeared for the first respondent wife. Interim stay granted by this Court on March 2, 2005 has been continuing till date.

5. The order which is impugned in the present petition is passed during the pendency of Criminal Application No.143 of 2001. Learned Advocate informs me that this Criminal Revision application is still pending.

6. During the pendency of this Criminal Revision Application, a request was made to stay execution proceedings being Execution Proceeding

No.249 of 1995. Although that request was denied by the Revisional Court, this Court has granted the same. In such circumstances and in the absence of respondent No.1, it would not be proper to adjudicate upon the issue of maintainability of the execution proceedings finally. More so, when the same is pending before the Sessions Court Satara.

7. The appropriate course would be therefore, to continue the interim order passed by this Court till hearing and final disposal of Criminal Rev.Application No.143 of 2001. The learned Additional Sessions Judge to whom the said application is assigned, shall endeavour and dispose of the same as expeditiously as possible. It would be open for respondent No.1 wife to apply for vacating the interim order passed by this Court in case the Criminal Revision application is not disposed of within six months from the date of receipt of copy of this Court's

order. In all fairness, petitioner's Advocate states that the petitioner husband is willing to pay some reasonable amount to the first respondent, without prejudice to his rights and contentions in the Criminal Revision Application. Rule is accordingly made absolute in the above terms.

(S.C.Dharmadhikari, J)